

JUDGE SWAIN

CHALOS O'CONNOR & DUFFY, LLP
Attorneys for Plaintiff,
Eastwind Transport Limited
366 Main Street
Port Washington, New York 11050
Tel: (516) 767-3600
Fax: (516) 767-3605
Owen F. Duffy (OD-3144)
George E. Murray (GM-4172)

07 cv 11195

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EASTWIND TRANSPORT LIMITED,

Plaintiff,

v.

SARL STAR FRUITS IMPORT-EXPORT,

Defendant.

STATE OF NEW YORK

:

: ss.

COUNTY OF NASSAU

:

07 CV ____ (____)

**ATTORNEY'S
AFFIDAVIT THAT
DEFENDANTS CANNOT
BE FOUND WITHIN THE
DISTRICT**

This affidavit is executed by the attorney for the Plaintiff, EASTWIND
TRANSPORT LIMITED, (hereinafter "EASTWIND"), in order to secure the issuance of
a Summons and Process of Attachment and Garnishment in the above-entitled, *in
personam*, Admiralty cause.

Owen F. Duffy, being first duly sworn, deposes and states:

1. I am a partner of the firm of Chalos, O'Connor & Duffy LLP representing
Plaintiff, EASTWIND, in this case.

2. I have personally inquired or have directed inquiries into the presence of Defendants SARL STAR FRUITS IMPORT-EXPORT in this District.

3. I have personally checked with the office of the Secretary of State of the State of New York, using the Secretary of State's Division of Corporations database, and I have determined that, as of December 12, 2007, the Defendant SARL STAR FRUITS IMPORT-EXPORT is not incorporated pursuant to the laws of New York, is not qualified to conduct business within the State of New York and has not nominated agents for the service of process within New York because the Secretary of State of the State of New York has no records for the Defendant SARL STAR FRUITS IMPORT-EXPORT.

4. In the New York State Department of State's Division of Corporations database is a similarly-named inactive entity by the name of "Star Fruit Corporation" located in Queens, New York, however I do not believe that Star Fruit Corporation is the same entity as the Defendant SARL STAR FRUITS IMPORT-EXPORT because it has a significantly different name and the address for Star Fruit Corporation indicates a Korean connection whereas Defendant SARL STAR FRUITS IMPORT-EXPORT is located in Algeria.

5. Additionally, Star Fruit Corporation is an inactive business corporation, and, being inactive, does not create a presence in the Southern District of New York in any event.

6. Furthermore, I have inquired of Verizon Telephone Company whether the Defendant SARL STAR FRUITS IMPORT-EXPORT can be located within this District. The Verizon Telephone Company has advised me that the Defendant does not have any telephone number listings within this District.

7. I have further consulted with several other telephone directories on the internet, and I have found no telephone listing or address for the Defendant SARL STAR FRUITS IMPORT-EXPORT, within this District.

8. I have further made several searches on the internet with various search engines and maritime websites, and I have found no indication that the Defendant SARL STAR FRUITS IMPORT-EXPORT, can be found within this District.

9. In that I have been able to determine that the Defendant SARL STAR FRUITS IMPORT-EXPORT are not based in the United States of America and that I have found no indication that the Defendant SARL STAR FRUITS IMPORT-EXPORT, can be found within this District, I have formed a good faith belief that the Defendant SARL STAR FRUITS IMPORT-EXPORT does not have sufficient contacts or business activities within this District to defeat maritime attachment under Rule B of the Supplemental Rules for Admiralty and Maritime Claims as set forth in the Federal Rules of Civil Procedure.

10. It is my belief, based upon my own investigation that the Defendant SARL STAR FRUITS IMPORT-EXPORT cannot be found within this District for the purposes of Rule B of the Supplemental Rules of Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure.

Dated: Port Washington, New York
December 12, 2007

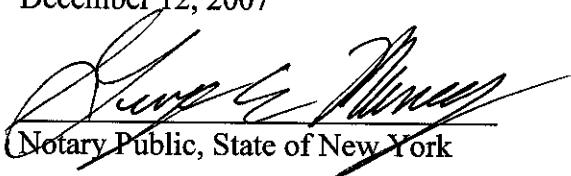
CHALOS, O'CONNOR & DUFFY, LLP
Attorneys for Plaintiff,
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By:



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Fax: (516) 767-3605

Subscribed and sworn to before me this
December 12, 2007



Notary Public, State of New York

GEORGE E. MURRAY
Notary Public, State of New York
No. 02MU6108120
Qualified in New York County
Commission Expires April 12, 2008